

I do not, however, propose to go into this inquiry, nor to express a positive opinion that, standing alone upon the equitable doctrine of the court as established by the adjudged cases, the circumstances of this case are or are not sufficient to justify the giving the whole of this fund to the wife for the maintenance of herself and her children.

The late Benedict W. Hall from whom the estate, which has been sold, descended to his heirs at law, the wife of William F. Turner being one, died in February, 1843, intestate, and consequently after the passage of the act of 1841, ch. 161. That act declares "that no real estate, hereafter acquired by marriage, shall be liable to execution during the life of the wife, for debts due from the husband."

As, therefore, the interest of the husband in this land, was acquired after the passage of this act, it is clear, and has not been denied, that it is protected from execution for debts due from him so long as his wife shall live. And, I do not suppose, that the legislature meant simply to protect it from execution, restricting that term to its technical signification, but they meant, I am persuaded, that during the life of the husband and wife, her lands should not be made liable to pay his debts. Why should it be protected from the execution of his judgment creditors and exposed to be sold by his insolvent trustee after those creditors had forced him to petition, as at the time of the passage of the act they might readily have done by the writ of *ca. sa.*?

Looking to the policy and spirit of the act it would, I think, be falling short of the object which the legislature had in view, to confine its operation within the narrow limits contended for.

But, it is said, that though the act may suspend the right of the creditors of the husband, either by direct execution against the land acquired by the marriage, or through the instrumentality of his trustee, when he petitions for the benefit of the insolvent laws during the life of his wife, provided the nature of the property is not changed, yet if it be changed and converted into money, the property in its new shape is no longer under the protection of the law.